

1  
2  
3  
4 UNITED STATES DISTRICT COURT

5 DISTRICT OF NEVADA

6 \* \* \*

7 CARMELLA LANDI,

Plaintiff,

Case No. 2:14-cv-01045-JCM-PAL

8 v.

ORDER

9 PANDA EXPRESS, INC., et al.,

Defendants.

10  
11 Before the court is the parties' Stipulated Protective Order (Dkt. #17), which the court  
12 approved, with the exception of Paragraph 12, to facilitate discovery in this case. This order also  
13 reminds counsel that there is a presumption of public access to judicial files and records. A party  
14 seeking to file a confidential document under seal must file a motion to seal and must comply  
15 with the Ninth Circuit's directives in *Kamakana v. City and County of Honolulu*, 447 F.3d 1172  
16 (9th Cir. 2006).

17 Paragraph 12 provides that, when filing documents subject to the Protective Order with  
18 the court, the parties should submit the documents to the Clerk of Court in a sealed envelope.  
19 While this was an acceptable procedure prior to the courts adoption of electronic filing  
20 procedures, with a few exceptions not applicable here, the Clerk of the Court no longer maintains  
21 paper records. Special Order 109 requires the Clerk of the Court to maintain the official files for  
22 all cases filed on or after November 7, 2005, in electronic form. The electronic record  
23 constitutes the official record of the court. Attorneys must file documents under seal using the  
24 court's electronic filing procedures. *See* LR 10-5(b). That rule provides:

25  
26 Unless otherwise permitted by statute, rule or prior Court order,  
27 papers filed with the Court under seal shall be accompanied by a  
motion for leave to file those documents under seal, and shall be

1 filed in accordance with the Court's electronic filing procedures. If  
2 papers are filed under seal pursuant to prior Court order, the papers  
3 shall bear the following notation on the first page, directly under the  
4 case number: "FILED UNDER SEAL PURSUANT TO COURT  
ORDER DATED \_\_\_\_\_. All papers filed under seal will  
remain sealed until such time as the Court may deny the motion to  
seal or enter an order to unseal them, or the documents are unsealed  
pursuant to Local Rule.

5 The court has approved the parties' blanket protective order to facilitate their discovery  
6 exchanges. However, the parties have not shown, and court has not found, that any specific  
7 documents are secret or confidential. The parties have not provided specific facts supported by  
8 affidavits or concrete examples to establish that a protective order is required to protect any  
9 specific trade secret or other confidential information under Rule 26(c) or that disclosure would  
10 cause an identifiable and significant harm. The Ninth Circuit has held that there is a presumption  
11 of public access to judicial files and records and that parties seeking to maintain the  
12 confidentiality of documents attached to non-dispositive motions must show good cause exists to  
13 overcome the presumption of public access. *See Kamakana* 447 F.3d at 1179. Parties seeking to  
14 maintain the secrecy of documents attached to dispositive motions must show compelling  
15 reasons sufficient to overcome the presumption of public access. *Id.* at 1180.

16 Accordingly,

17 **IT IS ORDERED:**

18 1. Paragraph 12 of the Stipulated Protective Order is NOT APPROVED and is  
19 STRICKEN.  
20 2. The parties shall comply with LR 10-5(b) and the Ninth Circuit's opinion in  
21 *Kamakana*, 447 F.3d 1172 (9th Cir. 2006), when filing documents under seal.

22 Dated this 12th day of November, 2014.

23  
24   
PEGGY A. TEEN  
25 UNITED STATES MAGISTRATE JUDGE  
26  
27  
28